

AMENDED IN ASSEMBLY MAY 11, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

AMENDED IN ASSEMBLY APRIL 1, 2009

AMENDED IN ASSEMBLY MARCH 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 453**

**Introduced by Assembly Member Garrick  
(Principal coauthor: Assembly Member Miller)**

(Principal coauthor: Senator Cox)

*(Coauthors: Assembly Members Adams, Anderson, Arambula, Bill Berryhill, Tom Berryhill, Blakeslee, Caballero, Conway, Cook, Coto, DeVore, Duvall, Emmerson, Fletcher, Fuller, Gaines, Galgiani, Gilmore, Hagman, Harkey, Huber, Jeffries, Knight, Logue, Mendoza, Nestande, Niello, Nielsen, Portantino, Silva, Smyth, Solorio, Audra Strickland, Swanson, Tran, and Villines)*

February 24, 2009

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An act to amend Section 41964 of the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.:

### LEGISLATIVE COUNSEL'S DIGEST

AB 453, as amended, Garrick. Gasoline: vapor recovery systems.

Existing law requires the State Air Resources Board to adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage and transfer operations, and additional performance standards to ensure that systems for the control of gasoline

vapors from motor vehicle fueling operations do not cause excessive spillage and emissions. Existing law prohibits the state board from requiring a gasoline dispensing facility that meets certain requirements from undergoing an Enhanced Vapor Recovery Phase II upgrade until April 1, 2011.

This bill, *except as specified*, would ~~exempt~~ *limit the fines imposed on a gasoline dispensing facility that does not meet these requirements from penalties for failing to undergo an Enhanced Vapor Recovery Phase II upgrade until April 1, 2010 fails to meet an April 1, 2009, compliance deadline to a total of no more than \$1,000 for all violations that occur between April 1, 2009, and December 31, 2009, if the gasoline dispensing facility meets specified requirements.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 41964 of the Health and Safety Code is~~  
2     ~~amended to read:~~  
3     ~~41964. (a) The state board shall not require a gasoline~~  
4     ~~dispensing facility that meets all of the following requirements to~~  
5     ~~undergo an Enhanced Vapor Recovery Phase II upgrade until April~~  
6     ~~1, 2011:~~  
7     ~~(1) As of January 1, 2009, have installed a state board-certified~~  
8     ~~Phase II vapor recovery system.~~  
9     ~~(2) Have an annual gasoline throughput of 240,000 gallons or~~  
10    ~~less.~~  
11    ~~(3) Operate in a county that has a population of less than~~  
12    ~~100,000.~~  
13    ~~(4) Operate in a basin not classified as nonattainment for ozone.~~  
14    ~~(b) A gasoline dispensing facility that does not meet all of the~~  
15    ~~requirements of subdivision (a) that fails to undergo an Enhanced~~  
16    ~~Vapor Recovery Phase II upgrade shall not be subject to penalties~~  
17    ~~for violations that occur before April 1, 2010.~~  
18    ~~SECTION 1. (a) An air pollution control district or air quality~~  
19    ~~management district shall not impose fines totaling more than one~~  
20    ~~thousand dollars (\$1,000) on any gasoline dispensing facility for~~  
21    ~~failure to meet the April 1, 2009, compliance deadline for the State~~

1 *Air Resources Board's Enhanced Vapor Recovery Phase II*  
2 *upgrade, if the gasoline dispensing facility completes the Enhanced*  
3 *Vapor Recovery Phase II upgrade on or before June 30, 2009, or*  
4 *meets both of the following conditions:*

5 *(1) The gasoline dispensing facility, on or before April 1, 2009,*  
6 *has applied for a permit from the air pollution control district or*  
7 *air quality management district necessary to complete the*  
8 *Enhanced Vapor Recovery Phase II upgrade.*

9 *(2) The gasoline dispensing facility has entered into a*  
10 *compliance agreement with the air pollution control district or*  
11 *air quality management district on or before June 30, 2009. A*  
12 *gasoline dispensing facility is deemed to meet the requirements of*  
13 *this paragraph even if the facility entered into a compliance*  
14 *agreement with the district before the effective date of this act that*  
15 *required the facility to pay fines in excess of one thousand dollars*  
16 *(\$1,000). However, the facility shall not be required to pay fines*  
17 *in excess of one thousand dollars (\$1,000) if the facility meets the*  
18 *requirements of this subdivision, even if fines exceeding one*  
19 *thousand dollars (\$1,000) were part of a compliance agreement*  
20 *entered into between the facility and the district before the effective*  
21 *date of this act.*

22 *(b) Except as provided in subdivision (c), the provisions of this*  
23 *section limiting fines described in subdivision (a) to one thousand*  
24 *dollars (\$1,000) shall apply to all violations related to the April*  
25 *1, 2009, compliance deadline for the Enhanced Vapor Recovery*  
26 *Phase II upgrade that occur between April 1, 2009, to December*  
27 *31, 2009, inclusive.*

28 *(c) If a gasoline dispensing facility has entered into a*  
29 *compliance agreement with the district and the agreement specifies*  
30 *a compliance date before December 31, 2009, the provisions of*  
31 *this section limiting fines to one thousand dollars (\$1,000) shall*  
32 *apply to the period from April 1, 2009, until the compliance date*  
33 *specified in the compliance agreement.*

34 *(d) This section shall remain operative until January 1, 2010.*

35 SEC. 2. This act is an urgency statute necessary for the  
36 immediate preservation of the public peace, health, or safety within  
37 the meaning of Article IV of the Constitution and shall go into  
38 immediate effect. The facts constituting the necessity are:

- 1 In order to protect jobs, the economy, and retain critically needed
- 2 revenue for the state, it is necessary that this act take effect
- 3 immediately.